

KITTERY PORT AUTHORITY
December 3, 2015 Meeting Minutes
Council Chambers, Town Hall

Members Present: Kelly Philbrook, Mark Alesse, Steve Lawrence, Mark Drummond, Peter Whitman and Bruce Crawford

Members Absent: None

Staff: Harbormaster Derek Jacobs

Meeting began at 6:00 p.m.

1. Call to order

2. Pledge of allegiance

3. Minutes: November 5, 2015

Mr. Whitman and Ms. Philbrook made revisions to the minutes from November 5, 2015.

Ms. Philbrook moved to approve the minutes of the November 5, 2015 meeting.

Mr. Drummond seconded

Motion Carried: 7-0-0

4. Harbormaster's Report: Derek Jacobs

Derek stated budget revenues and report haven't changed much from last month.

Derek stated that CIP was due on Monday. He said items are listed by priority and should be in order. Derek noted number one is Pepperell Cove lighting and railing. He continued ramp and Float reserve which is the program the KPA is trying to continue to allocate funds to. Derek stated the last page relates to schedule reserve which is how the KPA calculates the reserves and what to ask for and how much. He noted the pages lists KPA boat, KPA equipment and KPA float and ramp reserves these are all scheduled far out. Derek stated these can all be adjusted from year to year. Derek continued he, Peter and Cindy had also been discussing infrastructure reserves for each department which would be building replacement, roofs, and things of that nature. He stated they are looking at everyone getting reserves for that and he hopes to have more information on that after CIP season.

Mr. Whitman asked Derek if some of the money for CIP had been taken out of the budget because it would be covered under another budget.

Derek responded that the bathroom needs to be updated which will cost between \$1,000 and \$1,500 which doesn't meet threshold for capital improvement but there are other account that money could come out of. Derek stated anything that comes in at less than \$1,000 comes out of the operating budget. Derek noted that when projects come in it will need to be assessed how much they cost and whether they should come out of the capital or operating budget.

Derek continued the reserves that were chosen where Pepperell Cove lighting, ramp and floats, KPA equipment, KPA boat, paving and utilities at Pepperell Cove and Government Street pier,

which is a new reserve. He stated Government Street is in need of repairs but in the long term it will need to be replaced and if funds start being allocated to that now it's less of a chunk that will be asked for later.

Derek said he would skip mooring moratorium as that would be discussed in the rules and regulations section of the agenda.

Mr. Whitman commented that he met with Derek and Cindy, the town accountant and reviewed the process and he felt much more comfortable and had a better understanding of the CIP.

Derek further stated the reserve accounts are set out to 2028 but those can be adjusted. There needs to be money in those accounts to do projects now. He stated there is a decent amount of money in the accounts for some of the ramps and floats that need to be replaced immediately. Derek said that the idea is that in 20 years when the big ones need to be replaced it will not come all at once.

Derek stated that Peter had asked him to draft up language for the rules and regulations. Derek said it is a draft under section 3, section a, assignment of mooring sites. Derek feels this would be a good place to add the language without having to restructure the rules and regulations. Derek read "any consideration or proposal of new mooring sites must go before the port authority to be approved before that site is designated for a mooring."

There was a lengthy board discussion regarding the revision of the language for assignment of moorings. Mr. Crawford thought the section should be reworded. Mr. Whitman suggested the town attorney could help with wording of the section. Mr. Alesse wanted to clarify that the new language relates to creating a new mooring site and the language in the previous paragraph relates to assigning existing mooring sites. Mr. Alesse suggested the paragraphs be separated into a section a and section b. All board members agreed dividing the paragraphs into 2 sections was the best solution. Derek made note of the changes as section a relating to creation of new mooring sites and section b assignment of existing mooring sites.

Derek continued the fix Traip repair job came out well and hasn't shown any signs of being structurally hazardous anymore or compromised the integrity of the float system.

Derek stated he is currently working on the assistant harbor master evaluations. Mr. Whitman inquired what form Derek is using for the evaluations. Derek responded he's using the Kittery Port Authority employee performance evaluation. Derek said he will have those complete and these will go in the personnel files very soon.

Derek said he spoke with Bill Molton with Cianbro and he told him they will not have the barge there this winter. Derek stated that Mr. Molton said their plan is to have the barge on the base and there will not be any impediment in the flow this winter.

Derek stated he spoke with Duncan McEachern, the town attorney, regarding the collection of past fees for the harbor water usage fees. Derek provided Mr. McEachern with the language, paperwork and any minutes the KPA had regarding past due fees. Derek said Mr. McEachern is looking into the issue. Derek will be in touch with him regarding the end result for that issue.

Derek continued he had a line item for sinking moorings. He stated the 6 out front moorings will need to be inspected next year. Derek suggested sinking the moorings at the cost \$150 each and then raising them, having them inspected and putting the ball back on them in the spring. Mr. Whitman inquired how this might extend the life of the moorings. Derek responded it should extend it by a year or two. Derek commented that they will be inspected and sunk at the same time and hopefully sometime this winter they can repaint and letter them. Mr. Lawrence inquired where the money for this would come from in the budget. Derek responded that this would come out of the rigging budget. He further stated there should be plenty of money in that budget to take care of the float ins and the moorings. The board was in agreement with this plan and Derek was told to schedule it.

Derek noted that he was going to request proof of this year or last years boat registration for mooring renewals this year. Derek stated keeping this information in a file would give better control of knowing which boats should be on which moorings. The board was in agreement with this plan.

The board had a discussion on holding the public hearing for the new language for the rule on assignment of moorings. Derek said he would draft up the new rule and send it out to the board for approval and they could then decide on when to hold the public hearing.

5. Updates

Mr. Whitman stated there is a town council workshop scheduled for January 11, 2016 and the board needs to give the council an agenda for this meeting, he asked for the boards input. Ms. Philbrook commented that it needs to be decided who does the harbor master work for and who does the KPA work for. She further said it needs to be decided is the KPA a state board or a town board. Mr. Whitman stated he would put together a proposed agenda and circulate it to the board. Mr. Crawford inquired as to who wanted the meeting the KPA or the council. Mr. Whitman replied that he believed there is supposed to be an annual meeting between to the 2 groups. He continued that the major issue is whether the KPA is an independent board or is under the department of the town. Mr. Whitman said that it has been suggested that a small group from the KPA and the council should get together to discuss this issue and get it resolved.

The board held a discussion on whether members wish to be a state run board or town run board. Mr. Lawrence and Mr. Crawford expressed their opinions. Mr. Whitman agreed this and many other issues need to be resolved. Mr. Whitman expressed that he believes getting together 2 small working groups one from the KPA and one from the council to discuss the issues and come up with resolutions would be the goal.

Mr. Alesse commented that the KPA most likely wants to approach the board with their position on each item on the agenda for the meeting. Mr. Whitman stated this was the reason he thought a work session before the meeting would be a good idea. Ms. Philbrook commented that everyone has their own opinions and the board is looking for the town's guidance which is why she feels the board should meet with the council before doing a lot of work. Mr. Whitman proposed the board hold a work session on January 5th to get everyone's thoughts organized prior to the town council meeting. All board members were in agreement and a work session was scheduled for January 5th at 6pm.

Mr. Whitman stated on further updates the board is still interviewing for a new member.

Mr. Whitman stated the planning board puts together a comprehensive plan periodically which involves planning for the entire town of Kittery. Mr. Whitman said he has been approached by the planning board to see if there is a member of the KPA that would be interested in joining this committee. Mr. Drummond stated he may consider joining. No other board members expressed interest.

Mr. Whitman said the board had been discussing the replacement in kind issue and he and Derek did meet with the code enforcement officer regarding this issue. Mr. Whitman stated they had decided the KPA would be responsible for anything that didn't require a building permit and was under \$2,000 and the code enforcement office would be responsible for all projects over \$2,000. Mr. Whitman continued on smaller project either Derek or Mr. Lawrence would go out and take measurements. Mr. Whitman stated for larger projects the code enforcement officer would use his discretion on determining whether it's necessary to hire a third party inspector. Mr. Lawrence asked how this issue is now in the control of the code enforcement officer. Mr. Whitman replied that it's not completely in control of the code enforcement officer; the board still has to review them it's just the control aspect of ensuring the replacement in kind is fact what it should be. A lengthy board discussion ensued regarding this issue. Ms. Philbrook inquired as to what the planning department considers a replacement in kind. Mr. Alesse replied he was not sure of the exact definition.

Mr. Whitman stated last month the board was talking about the water usage fee compliance issue regarding boats being kept on Navy property. Mr. Whitman said he spoke with Senator Collins office and they are pleased to help the KPA meet with the shipyard in order to resolve the collection of water usage fees.

Mr. Whitman announced he is now representing Online Moorings Company. Mr. Whitman said he sent a letter to the town manager to make them aware he is now representing this company. He said this letter will be part of the record.

Mr. Whitman stated on the matter of communications with the council he has met with the chair. Mr. Whitman continued the chair has sent along some issues for the KPA to be considering one is at the meeting in November Mr. Hall asked about the shore and harbor plan. Mr. Whitman said there was a discussion about a quality improvement plan for the ports led by the planning department and the KPA has been asked if they would like to be involved in that process. Ms. Philbrook stated she recalls this was a finished document which the KPA had a few clarifying questions on. Ms. Philbrook remembers it was sent back to the planning department and the document was not seen again. Mr. Whitman replied that this was done over a year ago. Mr. Whitman read the response to Mr. Hall from the town manager "please see below taken from the planning board minutes of 7/24/14 the last action concerning the shore and harbor plan. The board held a public hearing May 22." He continued reading from their minutes "the quality improvement plan for Kittery shore and harbors. The actions review and make recommendations to town council for adoption. Town advisor committee is transmitting draft plan for town planning board review, hearings and recommendations to town council for adoption. The QIP plan is a specific plan that includes goals/policies and implementation strategies for improving/protecting the town shores and harbors. Town planner Gerald R. Milroy will make a presentation." Mr. Whitman commented that was the way the plan was left. Mr. Whitman said the question of the KPA is whether they want to send this back to the planning board or if the KPA wants to take the lead in developing the plan. Mr. Lawrence said he would like to see the plan again before making a decision. Mr. Lawrence informed Mr. Whitman this was the Wright

Pearce plan that was done over a year ago. Mr. Whitman will get with the planning board director and follow up on this and let the town council know.

Mr. Whitman continued regarding a letter from the chair of the town council. Mr. Whitman read “we are addressing a revision to code title 4 boards and committees which has a section on the port authority includes the KPA, P&SL for informational purposes. In review, Frank (Mr. Dennett), discovered several errors in that version.” Mr. Whitman stated he has reviewed that version and said it only contains one change which seemed to be a clarification that the harbor master works for the port authority. Mr. Whitman asked with the board’s consent he would like to have Bruce review this. Mr. Lawrence stated he would also like to review this.

6. Public segment

Mr. Hall approached the podium. He stated on the issue of jurisdiction that everybody is doing their own thing. He said Mr. Whitman had just mentioned the code enforcement officer taking over review of the piers and stuff. He said this is not the code enforcement officers jurisdiction anything from high water out is the port authorities responsibility. Mr. Hall stated that the KPA should review the project and anything over \$2,000 should be mentioned in the letter to the code enforcement officer to make him aware of it.

Mr. Hall stated there used to be a meeting called a committee as a whole and the town council had been talking about getting back to that. This meeting involved the chairs of the boards getting together every 6 months to discuss what each board was doing so everyone was aware of what was going on. Mr. Hall stated for some reason those meetings just faded away. He continued but in that case the KPA would go to the town manager as the liaison for the town council.

Mr. Hall further commented he looked up the minutes of the planning board regarding the shore and harbor plan. He said the KPA Ok’d it and sent it back to the planning board to go to the council. Mr. Hall said Anne Grinnell kept postponing it. He continued the last time you can find anything about it is around 8/14 and Ms. Grinnell wanted it to go on until October. Mr. Hall said it faded out in October and you cannot find anything about the plan after that. Mr. Hall stated he is referring to the Wright Pearce shore and harbor plan and he wanted to bring that up because his neighbor who had been on the board during the time of this plan wanted to know what ever happened to it.

Mr. Hall said he also wanted to bring up that one of his neighbors uses the right away at Ferry Lane to go kayaking and swimming. He said by the bridge there are some boats, mostly tuna fishing boats but there is one guy there with 3 out boards on his boat. Mr. Hall said this guy comes in this way going about 40 to 50 mph and his neighbor is worried about getting run over.

Mr. Whitman closed the public hearing.

7. Schedule for future work sessions

Mr. Whitman stated the schedule for future work sessions had already been discussed.

8. Board member discussion

Mr. Lawrence inquired regarding an extension of the mooring moratorium. Mr. Whitman said he would entertain a motion to extend the moratorium.

Mr. Lawrence moved to extend the mooring moratorium until January 31, 2016.
Mr. Crawford seconded the motion.

Mr. Alesse asked for a brief explanation about this issue. Mr. Lawrence replied that things with new mooring got out of hand so they put the brakes on them for a while in order to get a better handle on everything.

Motion Carried: 7-0-0

Mr. Lawrence commented regarding the evaluations of the assistant harbor masters being done by Derek. He said that in the KPA rules and regulation the last sentence on page 27 under assistants section c "an assistance appointment may be terminated at any time by the port authority." Mr. Lawrence inquired as to where the KPA stands as far as Derek doing evaluations and no one else knowing about them. Derek stated he can provide the evaluations when they are complete. Mr. Lawrence asked if this rule is null and void. Mr. Whitman said that the KPA's contract with Derek states he hires and fires the assistant harbor masters. Mr. Lawrence pointed out that that contradicts the port authority's rules and regulations. Ms. Philbrook added that the contract was not agreed on by the entire board. Ms. Philbrook said that the board has always appointed assistants. Mr. Crawford stated that the state statute says the harbor master hires assistants. Mr. Lawrence stated this rule is something that needs to be worked on in the future.

Ms. Philbrook pointed out that the board never had a motion to send the new rule on moorings to public hearing. Mr. Whitman said that was due to the fact they haven't seen the new rule yet. Ms. Philbrook stated that they should still schedule a public hearing. Mr. Lawrence stated that he needs to recant his prior motion and it was his understanding that the new rule was simply going to be divided into 2 sections. Mr. Whitman told Ms. Philbrook to make a motion.

Ms. Philbrook moved to hold a public hearing for a port authority rules and regulation change for new mooring assignments on January 7, 2016.

Mr. Lawrence seconded the motion.

Motion Carried: 7-0-0

Ms. Philbrook stated the board needs to consider trying to take Frisbee pier out of the water for maintenance. Ms. Philbrook commented there has been nothing done to that pier since the day it was put in. Derek agreed the pier is in need of repair and pointed out that every tile is damaged some beyond the point of being usable. Mr. Whitman asked that Derek review this matter and come back to the board next month with his recommendations.

9. Executive Session

All board members were in agreement that an executive session was not needed.

10. Adjourn

Motion to adjourn the meeting was made by Mr. Lawrence.

Ms. Philbrook seconded.

Meeting adjourned 7:30pm